

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, December 2, 2002

Division One

A093831 -- The People v. Gilbert Eugene Layson.

By the Court: The petition for rehearing and the amended petition for rehearing are denied. Marchiano, P.J.

A099393 -- In re Nilo M., a Person Coming Under the Juvenile Court Law. The People v. Nilo M.

The order adjudicating appellant a ward of the court and removing him from the parental home is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A095821 -- Tin Angel, Inc. v. City and County of San Francisco, et al.

By the Court: The request for judicial notice is denied. The petition for rehearing is denied. Margulies, Acting P.J.

A097771 -- In re Rachael W., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services v. Tammy P.

The orders appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A093221 -- The People v. Charles James Chatman.

By the Court: The petition for rehearing is denied. Kline, P.J.

Monday, December 2, 2002 (continued)

A097954 -- Patrick Quick et al. v. Susan Bond.

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J.
(Not for Publication.)

Division Five

A098943 -- The People v. Billy Jean Wallace.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J.,
Simons, J. (Not for Publication.)

Tuesday, December 3, 2002

Division Three

A098163 -- The People v. Abraham Chochi Rodriguez.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A094096 -- Bart Valerio v. Andrew Youngquist Construction.

By the Court: Order Modifying Opinion. It is ordered that the opinion filed herein on November 27, 2002, be modified as follows. (See order.) This modification does not effect a change in judgment. McGuiness, P.J. (Certified for Publication.)

Division Four

A100183 -- Monica O. v. The Superior Court of Mendocino County; Mendocino County Department of Social Services, R.P.I.

The writ is denied on the merits. This decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A097489 -- Victor Amatucci v. County of San Mateo.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A097341 -- The People v. Ramon Hernandez.

The judgment is modified, to reflect that the two concurrent sentences imposed for violation of Health and Safety Code section 11383, subdivision (c) are ordered to be stayed, under section 654. The matter is remanded to the trial court, with instructions to prepare a corrected abstract of judgment so reflecting, and to forward the corrected abstract of judgment to the Department of

Corrections. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Wednesday, December 4, 2002

Division One

A098279 -- The People v. Clifford Locklear.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A097145 -- Russian River Community Forum v. County of Sonoma et al.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A098675 -- In re Michael S., a Person Coming Under the Juvenile Court Law. The People v. Michael S.

The order adjudicating appellant a continued ward of the court and committing him to the care of the probation department for placement at a suitable family or group home is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A100894 -- Stella M. Holmes v. The Superior Court of Alameda County; Alta Bates Medical Center et al, R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

A100885 -- Albert Dean Long v. The Superior Court of Marin County; People of the State of California, R.P.I.

By the Court: The petition for writ of prohibition is denied. Haerle, Acting P.J.

A096030 -- The People v. Joseph Paul Nurkiewicz.

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Wednesday, December 4, 2002 (continued)

A100705 -- Ala Singh et al. v. Guardian Singh et al.

The petition for writ of supersedeas/stay is denied. Haerle, Acting P.J.

Division Four

A097919 -- Citizens For Responsible and Accountable Government v. Board of Supervisors of Mendocino County.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A098370 -- Terrence West v. Oxo Chemie, Inc.

The judgment is vacated. The order granting Defendant Oxo's motion for summary judgment or, in the alternative, summary adjudication of claims is modified to grant summary adjudication as to the first, second, third, fifth, and sixth causes of action only. Appellant shall recover his costs on appeal. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, December 5, 2002

Division Two

A092386 -- Brook, Easley, Inc. et al. v. Raychem Corporation et al.

The judgment is affirmed. No costs are awarded. Lambden, J. We
Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

A094115, A096821 -- The People v. Chavel Maurice Augustine.

Order Modifying Opinion and Denying Rehearing. The Court: It is
ordered that the opinion filed herein on November 7, 2002, be modified as
follows: (See order.) Appellant's petition for rehearing is denied. There is no
change in the judgment. Kay, P.J. (Not for Publication.)

Division Five

A097187 -- Eugene Evans et al. v. City of Berkeley, et al.

By the Court: Good cause having been shown, the written opinion which
was filed November 25, 2002, in the above entitled cause, has now been certified
for publication pursuant to Rule 976(b) of the California Rules of Court, and it is
therefore ordered that it be published in the official reports. Jones, P.J.

Friday, December 6, 2002

Division One

A097159 -- The People v. Anthony Denard.

The conviction and sentence for second degree murder is reversed and the matter is remanded to permit a retrial on the murder charge. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A097611 -- The People v. Todd Kevin Denny.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J., (Not for Publication.)

A097225 -- The People v. Antoine Moore.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A095439 -- The People v. Darvon Theon Payne.

The abstract of judgment is amended to strike the three-year enhancement imposed under section 186.22. In all other respects, the judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A098600 -- Robert C. Blanson v. City of Richmond et al.

The order denying the petition for relief is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A096768/A097216 -- The People v. David Hernandez et al.

A098652 -- In re Miguel Quirino, on Habeas Corpus.

The judgments are affirmed. The petition for writ of habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, December 6, 2002 (continued)

Division Five

A093189 -- The People v. Rodolfo Puebla Napoles et al.

The judgment entered as to each defendant is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Certified for Partial Publication.)

A094826 -- Edward M. O'Reilly et al. v. John Hansen et al.

The order granting a new trial is reversed. The judgment previously entered in favor of O'Reilly is affirmed. O'Reilly shall recover costs on appeal. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday, December 9, 2002

Division One

A097045 -- In re Brandon M., a Person Coming Under the Juvenile Court Law. The People v. Brandon M.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A097723 -- The People v. Steven L. Shaw.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A097021 -- Oracle Corporation v. County of San Mateo.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Five

A094560 -- The People v. Kenneth Ira Burns.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, December 10, 2002

Division One

A099010 -- Walter G. Barker et al. v. Sam A. Caniglia et al.

Accordingly, the judgment is affirmed. Costs on appeal are awarded to respondents. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A097841 -- Robert Busch et al. v. Charles Hurwitz et al.

Accordingly, we affirm the order denying the Busches' application for a temporary restraining. Our decision is without prejudice to their right to file a motion for preliminary injunction. The order filed January 23, 2002, is affirmed. Costs on appeal are awarded to the Rodonis. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A093590 -- Peter Loewenstein, et al. v. City of Lafayette.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A095042 and A096115 -- Sharon B. Siegel v. CHW West Bay, et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A093514 -- The People v. Michael Edgar.

Order Certifying Opinion for Publication. The Court: The opinion in the above-entitled matter filed on November 12, 2002, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Kline, P.J.

A095649 -- The People v. Jeffrey Richard Favro.

Order Modifying Opinion. The Court: On the court's motion, it is ordered that the opinion filed herein on November 25, 2002, be modified as follows: (See order.) There is no change in the judgment. Kline, P.J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, December 10, 2002

The Court convened at 9:30 a.m. at its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A098390 Mark A. Sangiacomo

v.

Steven Gourley, Director of DMV

Cause called. John F. Lee argued for appellant Sangiacomo. Raymond W. Hamilton argued for respondent. Cause submitted.

A097434 Lawrence Tapp

v.

Board of Registered Nursing et al.

Cause called. Edgardo Gonzalez argued for appellant Tapp. Paul V. Bishop argued for respondents. Cause submitted.

At this point, the court reconstituted itself from Kay, P.J., Reardon, J. and Sepulveda, J. to Kay, P.J., Sepulveda, J. and Rivera, J.

A096499 Conchita Dieden et al.

A096505 v.

Stanley F. Schmidt

Causes called. Robert Jacobs argued for appellant Schmidt. Eric Schiffer argued for respondent First Nationwide Bank. Harold M. Jaffe argued for respondents Dieden. Causes submitted.

Court recessed at 10:21 a.m.

At 11:00 a.m., the court reconvened, present were Kay, P.J., Sepulveda, J. and Rivera, J.

A096144 Joseph Brazil, Jr.

v.

John Brazil et al.

Order to show cause called. Joseph Baxter argued for appellant Joseph Brazil. Stephen Barbose argued for respondents. Cause submitted.

The Court adjourned at : 11:25 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, December 10, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J., and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A095816 Daniel J. Ehresman

v.

California Department of Forestry

Causes called. Appellant Daniel J. Ehresman argued on his own behalf.

Ginerva Chandler argued for real party in interest Scotia Pacific Company.

Michael W. Neville argued for the respondent. Cause submitted.

At this point, the court reconstituted itself from Kay, P.J., Sepulveda, J. and Rivera, J. to Kay, P.J., Reardon, J. and Rivera, J.

A092782 People

v.

Harold Austin Wallace

Cause called. Doug McMaster argued for appellant People. William D.

Farber argued for respondent. Cause submitted.

A098486 California Casualty Insurance Company

v.

Yvette Simpson et al.

Cause called. James R. Kauffman argued for appellant California Casualty.

Michael Tcheng argued for respondent. Cause submitted.

The Court recessed at 3:33 p.m.

At 2:40 p.m. the court reconvened, present were Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A097886 Laurel Morrissey

v.

Coastal Auto Mart, Inc.

Cause called. Michael Morrissey argued for appellant Morrissey. Victor

Ferro argued for respondent via telephone conference. Cause submitted.

A090232 People

v.

Angel Flores

Cause called. Violet Elizabeth Grayson argued for appellant Flores. Morris Lenk argued for respondent. Cause submitted.

The Court adjourned at 3:15 p.m.

Tuesday, December 10, 2002 (continued)

Division Five

A098111 -- The People v. Christopher Brooks.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.
(Not for Publication.)

A098913 -- In re Foley C., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Cornelia C.

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

A098878 -- Intershop Communications, AG, et al. v. The Superior Court of San Francisco County; Frank R. Martinez, R.P.I.

Let a peremptory writ mandate issue commanding the trial court to enforce the forum selection clause and grant the motion to stay the action pending completion of the litigation in Hamburg, Germany. Costs are awarded to petitioners. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Certified for Publication.)

Wednesday, December 11, 2002

Division One

A098493 -- The People v. Terrell Goodall.

The order revoking appellant's probation and the sentence imposed are affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A094731, A096862, A097023 -- In re the Marriage of Scott Nicholson and Elizabeth Sparks.

The order crediting Nicholson with \$30,000 pursuant to Family Code section 2640 is vacated, and the matter is remanded for the purpose of recalculating the equalizing payment, without this credit. In all other respects, the judgment is affirmed. Costs are awarded to Sparks. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Partial Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, December 11, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Haerle, Acting P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A099980 City and County of San Francisco,
 v.
 The Superior Court of San Francisco County;
 Tammy Haygood, San Francisco Civil Service Commission.
Cause called and argued by Jerome B. Falk, counsel for petitioner, and
Vernon Grigg and William Terheyden, counsels for real parties in interest.
Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A094645 The People,
 v.
 Larry Davis.
Cause called on an order to show cause on Deputy Attorney General, Laurence Sullivan. Presiding Justice Kline conveys to the Department of Justice his concerns of excessive requests for extensions of time to file respondent's briefs without showing of good cause. He does not, however, impose any sanctions on Mr. Sullivan. Mr. Sullivan apologizes to the court.

A095023/
A098302 The People,
 v.
 Andrew Nathaniel Lewis.
In re Andrew Lewis on Habeas Corpus.

Cause called and argued by Carolyn Fershtman, counsel for appellant, and John Deist, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A095035 Insurance Commissioner of the State of California,
v.
Golden Eagle Insurance Company,
Alan Wunderman.
Cause called and argued by Anthony Marsh, counsel for appellant, and Laura Hogan, counsel for respondent. Cause ordered submitted.

At the point of the proceedings, Justice Ruvolo leaves the bench and Justice Haerle joins the bench for the remainder of the calendar.

A096921 The People,
v.
Deborah Lynn Gurnett.
Cause called and argued by Randy Sue Pollock, counsel for appellant, and Joan Killeen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A097104 Massoumeh Hosseini-Greer,
v.
Wilbur Woo et al.
Cause called and argued by Ross Madden, counsel for appellant, and Michael Kennick, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, December 12, 2002 at 9:30 a.m.

Wednesday, December 11, 2002 (continued)

Division Three

A097895 -- The People v. David Ronald Schoof.

The portion of the judgment imposing a two-year consecutive period of imprisonment pursuant to section 12022.1 is reversed. Following remand, the trial court is directed to amend the judgment to reflect the fact that the enhancement in question is permanently stayed pursuant to section 12022.1, subdivision (d). McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

A094563 -- Malcolm W. et al. v. Novato Unified School District et al.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A095606 -- In re Golden Eagle Insurance Company in Liquidation.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A095952 -- The People v. Tommy Bibbs.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A096144 -- Joseph Brazil, Jr. v. John Brazil, Individually and as Trustee, etc., et al., Constance Brazil, Individually and as Trustee, etc., et al.

The judgment is affirmed. Plaintiff shall pay to defendants sanctions in the amount of \$26,209.28 for the filing of a frivolous appeal. Defendants shall recover their costs on appeal. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A097806 -- The People v. Shannon Secrease.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Thursday, December 12, 2002

Division Two

A095869 -- The People v. William C. Ferrel

The judgment is modified to reduce Ferrell's convictions under counts 3, 4 and 5 to attempted perjury. The judgment is affirmed in all other respects. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Thursday, December 12, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A096778 The People
 v.
 Paul Christopher Buckley
Cause called and argued by Solomon Wollack, counsel for appellant and Nancy Tung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A096763 Richelle L.
 v.
 Roman Catholic Archbishop of San Francisco, et al.
Cause called and argued by Brian J. McCaffrey, counsel for appellant and Paul Gaspari and Robert Zaletel, counsel for respondents. Cause ordered submitted.
- a093393 Zion Lavie
 v.
 Procter & Gamble Co.
Cause called and argued by Kevin Green, counsel for appellant and Jules Zeman, counsel for respondent. Cause ordered submitted.
- A093089 The People
 v.
 Michael James Caamal
Cause called and argued (telephonically) by Michael Dashjian, counsel for appellant and (in person) by Jeffrey Laurence, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A097032 David Rivero
v.
International House, et al.
Cause called and argued by Glenn Rothner and Cathy Arias, counsel for appellants and William Campisi, counsel for respondent. Cause ordered submitted.

A097239 Sandy Ngog Dung Nguyen
v.
Carl B. Shapiro, et al.
Cause called and argued by John Preston, counsel for appellant and Basil Plastiras, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Acting Presiding Justice Haerle left the bench and Presiding Justice Kline joined the bench.

A097561 Cindy Ranger
v.
Janie Bonham, et al.
Cause called and argued by James Reed, counsel for appellants and Kimberly Fanady, counsel for respondents. Cause ordered submitted.

A097735 Norman Colavincenzo
v.
Stephen Lopez
Cause called and argued by Edward Morris, counsel for appellant and John R. Streett, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Thursday, December 12, 2002 (continued)

Division Four

A097404 -- Harry W. Low, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company; U.S. Continental Marketing, Inc.

The written opinion that was filed on November 20, 2002, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Kay, P.J.

A097886 -- Laurel Morrissey v. Coastal Auto Mart, Inc.

We reverse the order denying appellant's section 473(b) motion. We remand the cause to the trial court with directions to grant relief from the judgment of dismissal and to award compensatory legal fees and costs to respondent. (§ 473(b).) We further direct the court to determine respondent's claim as part of case number DR010045. Finally, we urge the court to consider exercising its discretion to impose penalties and other appropriate relief as allowed under section 473, subdivision (c)(1)(A). The parties shall bear their own costs on appeal. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A099857 -- Elisa Fisher v. The Superior Court of Alameda County; John Muir Medical Center et al., R.P.I.

Let a peremptory writ issue commanding the trial court to grant the motion to amend the complaint. Petitioner shall be awarded costs. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Friday, December 13, 2002

Division One

A092113 -- The People v. Anthony Loveren Patton.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A096084 -- Patricia M. Bourke v. Division of Labor Standards, et al.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A098433 -- The People v. Abel Gutierrez Padilla.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A096100 -- In re Lyndon C., a Person Coming Under the Juvenile Court Law. The People v. Lyndon C.

The juvenile court's order is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A099000 -- The People v. Jeffery Chandler.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A095922 -- Salvatore Lucania v. Keith J. Anderson.

A097146 -- Salvatore Lucania v. Keith J. Anderson.

The order dismissing the complaint and the order awarding attorney fees incurred in the trial court proceedings are affirmed. We remand the matter to the trial court to determine the amount respondent may recover for his attorney fees and costs in connection with appellant's appeal. Each party shall bear his own costs in connection with the cross-appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Friday, December 13, 2002 (continued)

Division Three

A097707 -- Laverne Jones v. Wells Fargo Bank, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A096226 -- Ismael De Leon v. Olympiad Corporation, et al.

By the Court: Respondents' petition for rehearing and motion for leave to produce additional evidence are hereby denied. McGuiness, P.J.

A100031 -- In re Rachel M., a Person Coming Under the Juvenile Court Law. The People v. Rachel M.

The orders adjudicating appellant a continued ward of the court and placing her on probation in her mother's home are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A095275 -- Richard Medina et al. v. William Cooke et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A098987 -- The People v. Curtis Kip Cook.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A096923 -- The People v. Eric William Warner.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Friday, December 13, 2002 (continued)

Division Five

A095909, A097395 -- Michael L. Blodgett et al. v. Margaret Irvine; Stefanie Parrott et al.

The amended judgment is reversed and the matter is remanded with directions to the trial court to issue an amended judgment reflecting the credit of \$8,500 against plaintiffs' damage award. The amended judgment is otherwise affirmed. The parties shall bear their own costs on appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A098709 -- In re Arie E., et al, Persons Coming Under the Juvenile Court Law. Marin County Department of Social Services v. Julie B.

The order is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, December 16, 2002

Division Two

A100408 -- In re Myranda M. et al., Persons Coming Under the Juvenile Court Law.

The petition for extraordinary writ is denied on the merits. Since the permanency planning hearing is set for January 15, 2003, our decision on the writ petition is final as to this court immediately. (Rule 24(d).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A097606 -- In re Joann E., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. Kim S.

Order Certifying Opinion for publication. By the Court: Good cause appearing, the requests for publication are granted, and the opinion filed on November 15, 2002, is ordered published in the Official Reports. McGuiness, P.J. (Certified for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Monday, December 16, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Corrigan, J., Parrilli, J. Pollak, J. and I. Calanoc, Deputy Clerk.

A098466 The People,
 v.
 Jason Floyd Castle.
Cause called and argued by John Schuck, counsel for appellant, and Nancy Tung, counsel for respondent. Cause to be submitted upon receipt of supplemental briefing, 5 days from oral argument.

A097843 Caselli Construction,
 v.
 Alvin Jacobs, et al.
Cause called and argued by Robert Nellessen, counsel for appellants, and Jay Dove, counsel for respondent. Cause ordered submitted.

A093600 Dr. Mint Co., Ltd.,
 v.
 Tony Yip, et al.
Cause called and argued by Baron Drexel, counsel for appellants, and Malcolm Leader-Picone, counsel for respondent. Cause ordered submitted.

A096257 The People,
 v.
 Alan Ross Cluff.
Cause called and argued by William Such, counsel for appellant, and Rene Chacon, counsel for respondent. Cause ordered submitted.

A096912 In re the Marriage of Sharon and Algin Ford.

Algin Ford,

v.

Sharon Ford.

McGuiness, P.J. approached the bench. The panel is now comprised of McGuiness, P.J., Corrigan, J. and Pollak, J. Cause called and argued by Kenneth Robin, counsel for appellant, and Christopher Valle-Riestra, counsel for respondent. Cause ordered submitted.

A093759

The People,

v.

Donald Faye Barker.

Cause called and argued by William Such, counsel for appellant, and Ronald Niver, counsel for respondent. The matter will be taken under submission pending receipt of letter brief on December 20, 2002 from Attorney Niver.

A094878

Douglas R. Schmidt,

v.

Raymond M. Etter et al.

Cause called and argued via teleconference by Thomas Becker, counsel for appellants, and Stephen Rosenberg, counsel for respondent. Cause ordered submitted. Pollak, J. left the bench after this case.

A097116

Jenkins, Goodman & Neuman,

v.

Ronald Lum.

The panel for this case is now comprised of McGuiness, P.J., Corrigan, J., Parrilli, J. Cause called and argued by Douglas Applegate, counsel for appellant, and Joshua Goodman, counsel for respondent. Cause ordered submitted. Corrigan, J. left the bench after this case.

A098050

Anne Baskerville,

v.

Pacific Gateway Partnership.

Pollak, J. approached the bench. The panel is now comprised of McGuiness, P.J., Parrilli, J. and Pollak, J. Cause called and argued by Charles Wisch, counsel for appellant, and Timothy Emert, counsel for respondent. Cause ordered submitted.

A097764 In re Kristina M., a Person Coming Under
the Juvenile Court Law.
The People,
v.
Kristina M.
Cause called and argued by Violet Grayson, counsel for appellant, and
Catherine Rivlin, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Tuesday, December 17, 2002

Division One

A096739 -- Henry C. Baker, Sr. v. Camp Meeker Recreation and Park District et al.

The award of attorney fees is reversed, and the matter is remanded to the trial court for further proceedings consistent with the views expressed in this opinion. In all other respects, the judgment is affirmed. Appellant to recover costs on appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Three

A093974 -- American Home Assurance Company, et al. v. Société Commerciale Toutélectric.

The judgment is affirmed. American Home shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

Division Four

A099617 -- The People v. William Robert Baker.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A098486 -- California Casualty Insurance Company v. Yvette Simpson.

The judgment is affirmed with costs to respondent. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A093378 -- The People v. Joseph Calitina.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Tuesday, December 17, 2002 (continued)

A095816 -- Daniel J. Ehresman v. Department of Forestry and Fire Protection; Scotia Pacific Company et al., R.P.I.

The judgment is reversed insofar as it imposes sanctions on appellant; in all other respects the judgment is affirmed. The parties shall bear their own costs on appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A097688 -- In re Establishment of Fact of Death of Barry Starr.

The order is reversed with costs to appellant. Kay, P.J. I Concur: Rivera, J. (See concurring and dissenting opinion by Sepulveda, J.) (Certified for Partial Publication.)

A097434 -- Lawrence Tapp v. Board of Registered Nursing.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A098088 -- The People v. Ronald Edwards.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Tuesday, December 17, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and sitting on assignment from the Chief Justice, Margulies, J., and Richard H. Sandvik, Deputy Clerk.

A095351 Canal Street Ltd., et al.
v.
Robert A. Sorich, et al.
Cause called and argued by John S. Blackman, counsel for appellants, and by Alan M. Phillips and John Hartford, counsel for respondents. Cause ordered submitted.

At this point in the proceedings Justice Margulies left the bench and Justice Gemello took her place.

A097666 In re the Marriage of Jennifer and Andrew Hibbert.
Jennifer Hibbert
v.
Andrew Hibbert
Cause called, Jennifer Hibbert, in pro per, and by Andrew Hibbert, appearing by teleconference, in pro per. Cause ordered submitted.

A098397 Steiny and Company, Inc.
v.
American Contractors
Cause called and argued by Edward D. Barron, counsel for appellant, and by William J. Allard, counsel for respondent. Cause ordered submitted.

A098687 Burton Maxwell

v.

State of California, et al.

Cause called and argued by Lerue Grim, counsel for appellant, and by Heide T. Salerno, counsel for respondent. Cause ordered submitted.

A096210 The People
 v.
 Edward Berry Armstrong
Cause called and argued by Laurenn A. Bethards, argued by teleconference,
counsel for appellant, and by Grett Zywicke, counsel for respondent. Cause
ordered submitted.

A09651 The People
2 v.
 Jason Edward Fishban
Cause called and argued by J. David Nick, counsel for appellant, and by
Nanette Winaker, counsel for respondent. Cause ordered submitted.

A09490 The People
0 v.
 Christopher James White
Cause called and argued by Judith Kahn, counsel for appellant, and by
Nanette Winaker, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Stevens
took her place.

A09547 Elysa J. Yanowitz
4 v.
 L'Oreal USA, Inc.
Cause called and argued by Herbert W. Yanowitz, counsel for appellant, and
by William J. Carroll, counsel for respondent. Cause ordered submitted.

A09655 Harry W. Low, as Insurance Commissioner
5 v.
 Golden Eagle Insurance Company
Cause called and argued by Joseph L. Oliva, counsel for appellant, and by
Thomas J. Welsh, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:15 a.m.

Wednesday, December 18, 2002

Division One

A094843 -- Charles Chan v. Kammy W. Au

By the Court: The stipulation of the parties for order vacating decision and issuing remittitur ordering reversal of decision of trial court is granted. The opinion filed July 7, 2002 is vacated and the judgment of the trial court is reversed. The remittitur is to issue forthwith. The justices participating in this matter were Marchiano, P.J., Stein, J., and Swager, J. Marchiano, P.J.

Division Two

A093857 -- California School Employees Association et al. v. Fremont-Newark Community College District.

Order Modifying Opinion, Denying Rehearing and Denying Request to Publish. The Court: It is ordered that the opinion filed herein on November 26, 2002, be modified as follows: (See order.) There is no change in the judgment. Appellants' petition for rehearing is denied. Respondent's request to publish opinion is denied. Kline, P.J. (Not for Publication.)

A095580 -- Susan Coggins et al. v. Gap, Inc. et al.

We affirm the judgment. Respondents are awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A097288 -- In re Thasmia F., a Person Coming Under the Juvenile Court Law. The People v. Thasmia F.

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A096857 -- Duane Meyer v. Pennsylvania Life Insurance Company.⁸

The judgment is affirmed. Penn Life is awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, December 18, 2002 (continued)

A098747 -- Estate of Al Russo, Deceased.

We affirm. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A094337 -- The People v. Rocky Hunt.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Wednesday, December 18, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A09559 Tadao Yamaguchi et al.

0

v.

Chaiyut Harnsmut

Cause called and argued by Rita Gunasekaran, counsel for appellant, and by William M. Bennett, counsel for respondent. Cause ordered submitted.

A09502 Lynn Robertson

5

v.

Leal Reinhart

Cause called and argued by Daniel C. Payne, counsel for appellant, and by E. Elizabeth Summers, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Gemello left the bench and Justice Jones took her place.

A09886 The People et al.

3

v.

Henry Duque

Cause called and argued by Joseph Remcho, counsel for appellant, and by Pamela M. Pessley, counsel for respondent. Cause ordered submitted.

A09673 John Fuery

2

v.

Mary Louise Seib

Cause called, appellant John Fuery, in pro per and respondent Mary Seib, in pro per appeared, did not appear, no argument was heard. Cause ordered submitted.

A09752 John Fuery

4 v.

Mary Louise Seib

Cause called, appellant John Fuery, in pro per, and Elizabeth A. Principato-Phipps, counsel for respondent did not appeared, no argument was heard.

Cause ordered submitted.

A09692 The People

4 v.

Hans Peter Spaanzawacki

Cause called and argued by Sharon Wooden, counsel for appellant, and by Seth Schalit, counsel for respondent. Cause ordered submitted.

Court adjourned at 10:36 a.m.

Thursday, December 19, 2002

Division One

A097290 -- In re Jennifer D., a Person Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services v. Otis D.

The jurisdictional and dispositional orders appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A098890 -- In re Austin L. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. David L.

The juvenile court's orders of April 26, 2002 concerning appellant are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A096384 -- The People v. Darnell McClendon.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, December 19, 2002

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; and B. Robbins, Deputy Clerk.

- A097009 The People,
 v.
 Arthur Blacksher.
Cause called and argued by Jacques LeBoeuf, counsel for appellant, and Laurence Sullivan, counsel for respondent. Cause ordered submitted.
- A097077 Margaret Williams, et al.,
 v.
 Volunteers of America, et al.
Cause called and argued by Robert van Gutman, counsel for appellants, and Robert E. McNulty, counsel for respondents. Cause ordered submitted.
- A098685 Peter V.G. Jefferson,
 v.
 County of Napa, et al.
Cause called and argued by John L. Carr, counsel for appellant, and Silva Darbinian, counsel for respondents. Cause ordered submitted.
- A097623 David Collins, et al.,
 v.
 Overnight Transportation Company.
Cause called and argued by David A. Rosenfield, counsel for appellants, and Peter S. Rukin, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, December 19, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

A097560 Janet Campbell,
v.
Regents of the University of California.
Cause called and argued by Martin F. Jennings, counsel for appellant, and William J. Carroll, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench.

A094813 The People,
v.
Michael Rollin Ormiston.
Cause called and argued by Robert W. Gehring, counsel for appellant, and Michele Swanson, counsel for respondent. Cause ordered submitted.

A096786 The People,
v.
Gabriel Erazo.
Cause called and argued by Karen Balacek, counsel for appellant, and Matthew P. Boyle, counsel for respondent. Cause ordered submitted.

A098969 In re Marriage of Postma and Hasson.
A. Catrin Hasson
v.
Bert J. Postma.
Cause called and argued by Kim M. Richardson, counsel for appellant, and Janet Carol Mangini. Cause ordered submitted.

A095029 James McBride, et al.,

A095939 v.

Armand Estrada, et al.

Cause called and argued by James McBride, appellant in pro per, and Armand Estrada, counsel for respondents. Cause ordered submitted.

Court recessed until Friday, December 20, 2002 at 9:00 a.m.

Thursday, December 19, 2002 (continued)

Division Four

A097991 -- In re Anthony B., a Person Coming Under the Juvenile Court Law. The People v. Anthony B.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Certified for Publication.)

A096499 -- Benjamin Dieden et al. v. Stanley Schmidt.

A096505 -- Stanley Schmidt v. Benjamin Dieden et al.

The judgment in favor of First Nationwide is reversed. The order denying Schmidt's motion for attorney fees is reversed. Schmidt shall recover his costs on appeal. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Certified for Publication.)

A098390 -- Mark A. Sangiacomo v. Department of Motor Vehicles.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A097260 -- Michael G. Siefe et al. v. Equitable Life Assurance Society of the United States.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A096732/A097524 -- John Fuery v. Victoria Fuery et al.

The orders of the trial court are affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A099570 -- The People v. Kenneth Steve Lang.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Thursday, December 19, 2002 (continued)

A096924 -- The People v. Hans Spaanzawacki.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A097383 -- Paula R. Zinnemann, as Real Estate Commissioner, etc. v. Venancio A. Bagnol et al.; John J. Allison et al.

The order directing payment from the Barber Recovery Account is reversed, and the matter is remanded for entry of an order excluding the Allison Claimants from participation. Costs on appeal are awarded to appellants. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Certified for Publication.)

Friday, December 20, 2002

Division One

A095432 -- The People v. Louis Eugene Anderson.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A096780 -- B-C Housing Partnership, L.P. et al. v. Apollo Limited Partnership et al.

A096583 -- B-C Housing Partnership, L.P. et al. v. The Superior Court of Alameda County; Apollo Limited Partnership et al, R.P.I.

Order Modifying Opinion and Denying Rehearing and Request for Publication. The Court: It is ordered that the opinion filed herein on November 21, 2002, be modified as follows: (See order.) Appellants' petition for rehearing and request for publication are denied. Marchiano, P.J. (Not for Publication.)

A097673 -- The People v. Milton C. Eaton.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A098161 -- The People v. Bruce Francis Grams.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A097031 and A097620 -- Margaret Rose Gregory v. Albertson's Inc., et al.

The judgment is affirmed. Costs on appeal are awarded to respondents. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Certified for Publication.)

Friday, December 20, 2002 (continued)

A095029 and A095939 -- James McBride et al. v. Armand M. Estrada et al.

The judgment is affirmed, as is the order filed May 31, 2002, denying the McBrides' motion for attorney fees. The order concerning costs filed June 6, 2001 is vacated and the trial court is directed to make an order awarding costs consistent with this opinion. The parties are to bear their own costs on appeal. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A098084 -- The People v. Paul Owen Smith.

Accordingly, the motion for summary reversal is granted. The judgment is affirmed, but the three-year sentence is reversed. The matter is remanded for a resentencing hearing with appellant and his counsel present. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A097077 -- Margaret Williams et al. v. Volunteers of America, Bay Area, Inc.

The judgment entered on defendant's motion for summary judgment is affirmed. The order dismissing plaintiffs' complaint is affirmed. Defendant is awarded its costs on appeal. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Friday, December 20, 2002

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J. Swager, J., and Margulies, J.; and F. Abad, Deputy Clerk.

A097826 Lynn Dana-Davis, et al.,
 v.
 Peter Workman, et al.
Cause called and argued by Brian Charles Carter, counsel for appellants, and Anthony E. Graham, counsel for respondent Welch, and Thomas Stephen Brigham, counsel for respondent Workman, via teleconference. Cause ordered submitted.

A0997316 Susan Walsh,
 v.
 Farmers Insurance Company.
Cause called and argued by Mark G. Bonino, counsel for appellant, and Stephen S. Sayad, counsel for respondent. Cause ordered submitted.

Court adjourned.

Friday, December 20, 2002 (continued)

Division Three

A097995 -- The People v. Jose Avalos.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A097843 -- Caselli Construction v. Alvin Jacobs.

The judgment is modified to deduct \$4800.00 in liquidated damages and \$1,231.73 due Jacobs on the Stoneridge change order, or a total of \$6,031.73. The resulting judgment in favor of Caselli for \$6,222.64 is affirmed in all other respects. The parties shall bear their own costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A097285 -- In re Alexander H., et al. Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. John H.

The order of the juvenile court is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A097117 -- Carleen Olmstead et al. v. Arthur J. Gallagher & Company et al.

The orders denying sanctions are reversed. Gallagher shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

A097151 -- Cathy Rodriquez et al. v. City of Oakland.

The judgment incorporating the order denying the petition is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A097471 -- Syufy Enterprises, L.P. v. City of Oakland.

The judgment is affirmed. Syufy shall bear costs of the appeal. Parrilli, J. I Concur: Corrigan, Acting P.J. (Certified for Publication.) (See concurring opinion by Pollak, J.)

Friday, December 20, 2002 (continued)

Division Four

A097386 -- Ischemia Research & Education Foundation v. Arthur Andersen LLP.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A098924 -- The People v. Parrish Simon.

Judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A099597 -- In re Karen L., et al., Persons Coming Under the Juvenile Court Law. San Mateo County Social Services Agency v. Barney L.

The orders are affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A096731 -- The People v. Robert Guy Baker.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Certified for Partial Publication.)

A099096 -- In re Joyce F., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency, Children and Family Services v. Jill H. et al

The order terminating parental rights is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, December 23, 2002

Division One

A097465 -- Cipriano Andrada, et al. v. Alameda County Agricultural Fair Association.

By the Court: Since this court's November 22, 2002 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Marchiano, P.J.

A097009 -- The People v. Arthur Blacksher.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A097560 -- Janet Campbell v. The Regents of the University of California.

The judgment of dismissal is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A096786 -- The People v. Gabriel Erazo.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A098685 -- Peter V.G. Jefferson v. County of Napa et al.

Accordingly, this appeal is dismissed. Sanctions are denied. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A098545 -- In re Pierre R., a Person Coming Under the Juvenile Court Law. The People v. Pierre R.

The matter is remanded to the juvenile court for the determination of appellant's maximum term of confinement. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Monday, December 23, 2002 (continued)

Division Three

A098050 -- Anne Baskerville v. Pacific Gateway Partnership.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A091299 -- Marjorie Gauss, et al. v. GAF Corporation.

A091308 -- Carter Haught v. GAF Corporation.

A092647 -- In re Complex Asbestos Litigation.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on November 25, 2002, be modified as follows: (See order.) There is no change in judgment. Respondents' petition for rehearing is denied. McGuiness, P.J. (Certified for Publication.)

A097764 -- In re Kristina M., a Person Coming Under the Juvenile Court Law. The People v. Kristina M.

The order denying the application for rehearing is reversed. The juvenile court is directed to reconsider the application in accordance with the views expressed herein. (Cf. *Randy R.*, *supra*, 67 Cal.App.3d at p. 44.) McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A098724 -- The People v. Thomas Cortez.

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Monday, December 23, 2002

The Court convened at 9:30 a.m. at its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; Guardsmark Officer Michael Aurigui, Bailiff.

A098024 Earl Anthony Bowling, Inc. et al.
 v.
 Corrie Development Corporation
Cause called. Michael Rupprecht argued for appellant Corrie. Ira James Harris argued for respondents. Cause submitted.

At this point, the court reconstituted itself from Kay, P.J., Sepulveda, J. and Rivera, J. to Kay, P.J., Reardon, J. and Sepulveda, J.

A098022 Richard Paloma
 v.
 City of Newark
Cause called. Louis D. Silver argued for appellant Paloma. Felicia R. Reid argued for respondent. Cause submitted.

At this point, the court reconstituted itself from Kay, P.J., Reardon, J. and Sepulveda, J. to Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A096194 People
 v.
 Marvin Carter
Cause called. Violet E. Grayson argued for appellant Carter. Bruce Ortega argued for respondent. Cause submitted.

A097397 John W. Ford
A097621 v.
A098235 Marin Yacht Club
Causes called. In pro per appellant John W. Ford argued. Albert Bianchi teleargued for respondent. Causes submitted.

The Court adjourned at 11:03 am

Monday, December 23, 2002 (continued)

Division Five

A097274 -- In re Jon G., a Person Coming Under the Juvenile Court Law. The People v. Jon G.

By the Court: Order Modifying Opinion and Denying Rehearing. The opinion filed November 27, 2002, is hereby ordered modified as follows: (See order.) There is no change in the judgment. The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

A097687 -- The People v. Marcus Moore.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A098388 -- The People v. Juan Gabriel Sanchez.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A099318 -- Howard S. Wright Construction Co. v. The Superior Court of Alameda County; BBIC Investors, LLC, R.P.I.

Let a peremptory writ of mandate issue commanding the superior court to vacate its orders removing the mechanic's lien and expunging the notice of lis pendens and to conduct further proceedings on the action for foreclosure of a mechanic's lien. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, December 24, 2002

Division Three

A092239/A092473 -- Floyd Koch et al. v. Citadel Financial Corp., et al.
By the Court: The petition for rehearing is denied. McGuiness, P.J.

Thursday, December 26, 2002

Division Two

A098186 -- Larry Flynt et al. v. The California Gambling Control Commission et al.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Three

A093600 -- Dr. Mint Co., LTD v. Tony Yip et al.

The judgment is reversed and the matter is remanded to the trial court for issuance of a statement of decision pursuant to Code of Civil Procedure section 632. Each party is to bear its own costs on appeal. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A097116 -- Jenkins, Goodman & Neuman v. Ronald Lum.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Friday, December 27, 2002

Division Two

A091638 -- The People v. Joseph Douglas Alldredge.

The judgment is affirmed except as to the conviction on count 3, which is reversed, and the matter is remanded to the trial court for correction of the judgment by striking the conviction for count 3. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A095440 -- The People v. Steven Deltessandro.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A096257 -- The People v. Alan Cluff.

A099779 -- In re Alan Cluff on Habeas Corpus.

The judgment is affirmed, and the habeas corpus petition is denied. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A096601 -- In re the Marriage of Roseanna M. Valenty and Patrick P. Valenty, Jr.

The order denying requests for a division of military retirement benefits, modification of spousal support, and an award of attorney fees and costs is affirmed. Each party shall bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A099001 --The People v. James Chance Moore, Jr.

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Friday, December 27, 2002 (continued)

A093437 -- NGOC Tran v. Farmers Group, Inc., et al.

The judgment is reversed. The trial court is directed to enter orders overruling respondents' demurrer, and denying the motion by Farmers Group and Truck Underwriters Association for summary adjudication. Tran shall recover her costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

A097539 -- The People v. Maxine Smith.

By the Court: Maxine Smith's petition for rehearing is granted. McGuiness, P.J.

A099248 -- The People v. Ramon Deshawn Smith.

In sum, we find no arguable issues for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A097990 -- In re David W., a Person Coming Under the Juvenile Court Law. The People v. David W.

The jurisdictional order is reversed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A096194 -- The People v. Marvin Carter.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Friday, December 27, 2002 (continued)

A097326 -- Lawrence Murray v. John Jackman.

The judgment is affirmed. Costs to respondent. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A099951 -- Peter Rothman v. The Superior Court of Contra Costa County; Elizabeth Rothman, R.P.I.

By the Court:* We conclude that a writ of mandate should issue in the first instance. We are satisfied that the petition and exhibits on file adequately address the issues raised by the petition, that no factual dispute exists, and that the additional briefing that would follow issuance of an alternative writ is unnecessary to the disposition of this petition. The court requested opposition from real party in interest and no opposition was received. The issues presented concern a well-settled area of the law and no purpose could reasonably be served by plenary consideration of the issue. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1240; *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180.) Therefore, let a writ of mandate issue directing the superior court of Contra Costa to set aside and vacate its findings and order after hearing of August 26, 2002, filed in Rothman v. Rothman, Superior Court Contra Costa County, No. D01-04706. The parties shall bear their own costs in this proceeding (Cal. Rules of Court, rule 56.4). The stay previously imposed by this court shall remain in effect until the remittitur issues. (Cal. Rules of Court, rule 25(a).) This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) (Not for Publication.)

*By the Court: Kay, P.J., Sepulveda, J. and Rivera, J. joined in the decision.

A098815 -- Alok Singhania et al. v. Venture Law Group.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Friday, December 27, 2002 (continued)

Division Five

A100413 -- In re N.K., a Person Coming Under the Juvenile Court Law. Thomas K. v. The Superior Court of Alameda County; Alameda County Department of Social Services, R.P.I.

The order to show cause is discharged, and the petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26 (§ 366.26, subd. (1).) Because the section 366.26 hearing is set for January 15, 2003, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(a). Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A098613 -- Natalie Lykkeberg v. Anne R. Aldridge.

The order is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Monday, December 30, 2002

Division One

A097824 -- Lynn Dana-Davis et al. v. Peter Workman et al.

The judgment is affirmed. Costs are awarded to defendants. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

**A095647 -- In re the Marriage of Elvira and Gregory F.
Gregory F. v. Elvira F.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A097957 -- Edward Fabiszewski, et al. v. Patricia Barbera.

The order appealed from is reversed, without prejudice to review of the parties' dispute according to normal injunctive procedures. Each side shall bear its own costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A097071 -- The People v. Comelia Johnson.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A094878 -- Douglas R. Schmidt v. Raymond M. Etter, et al.

The order filed March 15, 2001, is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A097720 -- The People v. Salvador T. Tingzon.

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Monday, December 30, 2002 (continued)

Division Four

A098292 -- Gloria Chavarria v. The Regents of the University of California.

The order and judgment appealed from are affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A097397, A097621, A098235 -- John W. Ford v. The Marin Yacht Club, Inc.

The judgment and the order on attorney fees are affirmed. The parties shall bear their own costs and attorney fees. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A097449 -- The People v. Marcus Lamar Lovelace.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A097806 -- The People v. Shannon Secrease.

By the Court: Order Denying Rehearing and Modifying Opinion. Defendant's petition for rehearing is denied. The opinion filed December 11, 2002, is modified as follows: (See order.) The above modification does not effect any change in the judgment. Reardon, Acting P.J. (Not for Publication.)

Division Five

A098397 -- Steiny and Company, Inc. v. American Contractors Indemnity Company.

The judgment is reversed and remanded for further proceedings consistent with this opinion. On remand, the trial court is directed to go forward with consideration of Steiny's motion for summary judgment. Steiny shall recover its costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Tuesday, Decmeber 31, 2002

Division Three

A098418 -- In re Holly H., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Department v. Holly H.

The order dismissing the dependency proceedings is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Certified for Publication.)

A099282 -- The People v. Ricky Wayne Malone.

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

A093980 -- David McMahon v. Albany Unified School District, et al.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication.)

Division Four

A095113 -- The People v. William Anderson, Jr.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A098024 -- Earl Anthony Bowling, Inc. v. Corrie Development Corporation.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A090232 -- The People v. Angel Flores.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, December 31, 2002 (continued)

A096293 -- The People v. Dennis Alan Kraucyk.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J.
(Not for Publication.)

A098498 -- In re Daniel N., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health & Human Services v. Jerold N.

The appeal is dismissed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J.
(Not for Publication.)

Division Five

A096549 -- The People v. Jason M. Patten.

The judgment is reversed. Gemello, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

A097903 -- Irvin Wims v. Chevron U.S.A. Inc.

The judgment and orders of the trial court are affirmed. Costs on appeal shall be awarded to respondent. Simons, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)